

CYNTHIA BARNARD,

Plaintiff,

v.

STEVEN BURGESS,

Defendant.

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No. 11-00870-CV-W-FJG

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II. Standard of Review

“Under Rule 56(c), summary judgment is proper if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Celotex Corp. v. Catrett, 477 U.S. 317,322 (1986). All justifiable inferences are to be drawn in the nonmoving party’s favor. Eastman Kodak Co. v. Image Technical Serv. Inc., 504 U.S. 451 (1992). The moving party must carry the burden of establishing both the absence of a genuine issue of material fact and that such party is entitled to judgment as a matter of law. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574 (1986).

III. Discussion

On July 30, 2012, Defendant Burgess filed a response to Plaintiff’s Motion for Summary Judgment (Doc. No. 68). Defendant’s response specifically states, “[D]efendant, without counsel, ..informs this court that he does not contest the [P]laintiff’s motion for summary judgment.” (Doc. No. 68). Defendant further states that he “has no means to oppose Plaintiff’s motion and only desires to resolve this action currently before this court.....[D]efendant prays this court will grant [P]laintiff’s request for summary judgment and conclude these proceedings.” (Doc. No. 68).

Accordingly, there exists no genuine issue as to any material fact in the above-styled action. This case is appropriate for summary judgment. Therefore, Plaintiff’s Motion for Summary Judgment (Doc. No. 64) is hereby **GRANTED**.

IV. Conclusion

Plaintiff requests the Court set a date for evidence to be presented on damages issues for the purpose of finalizing this case (Doc. No. 64). Prior to setting a hearing date, the Court **DIRECTS** Plaintiff to file briefing on these issues **on or before November 2, 2012**.

The Clerk of the Court is directed to mail a copy of this order via regular and certified mail to Steven Burgess 21428045 P.O. Box 9000 Safford, AZ 85548.

IT IS SO ORDERED.

Date: October 15, 2012
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge